

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK (BROOKLYN)

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In Re:

RONA WYNNE HAVENS

Debtor

Case No.: 1-20-40287-cec

In Proceeding for
Chapter 13

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**ORDER GRANTING DEBTOR'S MOTION TO VOID THE PROPOSED ORDER &
FINDING OF FOR (CEC) WILLFUL VIOLATION OF AUTOMATIC STAY**

WHEREAS the Debtor RONA WYNNE HAVENS ("Debtor") filed the above-captioned action under Chapter 13 of the Bankruptcy Code on January 16, 2020; and

WHEREAS, at the time of the filing of the instant bankruptcy case, a related state court foreclosure action in Queens County Supreme Court under index number 710086/2015 titled *Green Tree Servicing LLC v. Jeremy L. Havens, Rona Havens, et al* ("Foreclosure Action") was ongoing; and

WHEREAS, on January 21, 2020, five days after the automatic stay under §362 went into effect, Berkman, Henoch, Peterson, Peddy, & Fenchel, P.C. ("Berkman") filed a Notice of Settlement and Proposed Order ("Proposed Order") in the Foreclosure Action; and

WHEREAS on January 24, 2020, Debtor's counsel sent a good faith email to Berkman, advising them that the filing of the Proposed Order was in violation of the automatic stay, and that it should be withdrawn immediately. Berkman declined to withdraw the Proposed Order; and

WHEREAS on February 3, 2020, Debtor filed the instant motion pursuant to (CEC) for entry of an order pursuant to 11 U.S.C. § 362(h)&(b) and/or 11 U.S.C. §362(a)(1) for a finding of a violation of the automatic stay by Berkman; and

WHEREAS the matter having been fully briefed and argued before the Court on February 20, 2020, with Berkman having interposed opposition thereto, with good cause shown by the Debtor; it is hereby

ORDERED, that the Debtor's motion is granted *as provided herein (CEC)*; and for reasons discussed on the record it is further

ORDERED the Proposed Order filed in the Foreclosure Action by Berkman on January 21, 2020 is a willful violation of the automatic stay under 11 U.S.C. § 362; and it is further

ORDERED that Berkman, pursuant to 11 U.S.C. § 362(k), is directed to pay Debtor's attorney's fees and costs for bringing the instant motion in the amount of \$1,898.00, pursuant to the annexed invoice. Berkman shall make payment to Debtor's counsel within 30 days of this order.

**Dated: Brooklyn, New York
March 12, 2020**





Carla E. Craig
United States Bankruptcy Judge